

This Page Is Inserted by IFW Operations  
and is not a part of the Official Record

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning documents *will not* correct images,  
please do not report the images to the  
Image Problems Mailbox.**

**CLIFFORD CHANCE US LLP**

200 Park Avenue  
New York, NY 10166  
(212) 878-8476 - tel.  
(212) 878-3356 - fax

Docket No. 7157-340

**TELECOPIER TRANSMISSION COVER SHEET**

Facsimile Number: (703) 308-6916

To: **United States Patent and Trademark Office**  
**Petitions Office**

Papers Being Transmitted:  
Request for Reconsideration under 1.47  
Reissue Declaration (3 pages)

**FAX RECEIVED****DEC 17 2002****PETITIONS OFFICE**

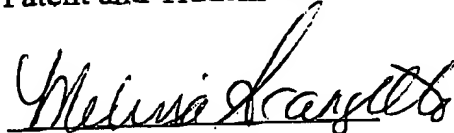
Number of Pages Being Transmitted (including cover): 7

**CERTIFICATE OF FACSIMILE TRANSMISSION**

Application No.: 09/579,023 Filed: May 25, 2000

I hereby certify that these papers are being facsimile transferred to the United States Patent and Trademark Office on the date shown below.

By:

  
Melissa Scanzillo

Date: December 17, 2002

FOR FAX TRANSMISSION PROBLEMS, CALL . THIS FACSIMILE TRANSMISSION IS INTENDED SOLELY FOR THE USE OF THE PERSON OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. ANY REVIEW, DISSEMINATION, DISTRIBUTION, COPYING OR OTHER USE OF, OR THE TAKING OF ANY ACTION IN RELIANCE UPON, THIS TRANSMISSION OR ITS CONTENTS BY PERSONS OTHER THAN THE ADDRESSEE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, OR ARE UNCERTAIN ABOUT ITS PROPER HANDLING, PLEASE CALL US IMMEDIATELY (COLLECT AT ) AND RETURN THE ORIGINAL TRANSMISSION TO US BY MAIL.

NYA 577844.1

#12

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence or, if this paper is a transmittal letter, every other paper or fee referred to therein, is being deposited electronically, via facsimile at (703) 308-6916 to: Commissioner for Patents, Washington, D.C. 20231, on

Date:

12-17-02

Name:

Melissa Scanzillo

Signature:

Melissa Scanzillo  
Clifford Chance US LLP

Docket No. 7157-340

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE** **FAX RECEIVED****DEC 17 2002**

In re Application of: Roustaei et al.

**PETITIONS OFFICE**

Filed: May 25, 2000

Group Art Unit: 2876

Serial No: 09/579,023

Examiner: to be determined

For: OPTICAL SCANNER FOR READING AND DECODING ONE-AND-TWO-DIMENSIONAL SYMBOLOGIES AT VARIABLE DEPTHS OF FIELD INCLUDING MEMORY EFFICIENT HIGH SPEED IMAGE PROCESSING MEANS AND HIGH ACCURACY IMAGE ANALYSIS MEANS

Commissioner for Patents  
Washington, D.C. 20231

**REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)**

Sir:

In response to the Decision Refusing Status Under 37 CFR 1.47 (a) dated July 12, 2002, Applicants respectfully Request Reconsideration of the Petition filed June 28, 2002 (certificate of mailing date is June 25, 2002). Applicants wish to bring to the Patent Office's attention that the Decision, which indicates that the copy was mailed on July 12, 2002, was never received by our office. A search on PAIR in early November 2002 showed that a Decision was rendered which prompted Melissa Scanzillo to call the USPTO to obtain a copy of the Decision. As you will note from our header, the Decision was faxed from the USPTO on November 14, 2002 (the date of which we received the Decision).

The Petition was denied in that it lacked (2) a proper oath or Declaration executed by the available joint inventor(s) along with their citizenship.

NYA 576773.1

As to the above items, enclosed please find the following:

1. ☒ Copy of the Reissue Declaration executed by Donald Fisher and which indicates the citizenship of all the inventors.
2. ☒ Fee as set forth under 37 CFR §1.17(i).

The enclosed reissue declaration for this application bears Mr. Long-Xiang Bian's, Mr. Roland L. Lawrence's, Mr. Ali Lebaschi's, Mr. Alexander R. Roustaei's and Mr. Donald Fisher's name and citizenship.

The reissue declaration was executed by Mr. Donald Fisher on April 10, 2002. As indicated by the documents filed on June 28, 2002, Applicants respectfully state that a *bona fide* and diligent attempt was made to obtain Mr. Long-Xiang Bian's, Mr. Roland L. Lawrence's, Mr. Ali Lebaschi's and Mr. Alexander R. Roustaei's signature and that Mr. Long-Xiang Bian, Mr. Roland L. Lawrence, Mr. Ali Lebaschi and Mr. Alexander R. Roustaei refused to execute the reissue declaration of inventorship. In view of this effort, it is believed that further efforts to obtain the signatures of these inventors would be unsuccessful.

Applicants respectfully request the grant of this Petition.

The Commissioner is hereby authorized to charge the petition fee of \$130.00 and any additional fee, or credit any overpayment to Deposit Account No. 50-0521. A duplicate copy of this transmittal is enclosed.

**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If any extension of time for this response is required, applicant requests that this be considered a petition therefore. Please charge the required Petition fee to Deposit Account No. 50-0521.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess to our Deposit Account No.

50-0521.

Date:

12/17/02

Respectfully submitted,



Mitchell S. Feller

Reg. No. 42,530

Clifford Chance US LLP  
200 Park Avenue  
New York, NY 10166-0153  
Telephone: (212) 878-8545

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

## REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)  
7157-340

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are stated below next to my name.  
 I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is described and claimed in patent number 5,756,981, granted May 26, 1998, and for which a reissue patent is sought on the invention entitled Optical Scanner for Reading and Decoding one-and-two Dimensional Symbolologies at Variable Depths of Field Including Memory-Efficient High Speed Image Processing Means and High Accuracy Image Analysis Means the specification of which

☐ is attached hereto.

☒ was filed on May 25, 2000 as reissue application number 09 / 579,023  
 and was amended on \_\_\_\_\_  
 (If applicable)

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

1. I believe the original patent to be wholly or partly invalid or inoperative by reason of my having claimed less than I had a right to claim, specifically that claims 1, 16 and 31 of the issued patent are too narrow in scope in that they recite, for example, the unnecessary limitation of "moving means for moving at least one of said plurality of lenses with respect to other lenses of said plurality of lenses".
2. I believe the errors corrected in this reissue application came about due to failure on the part of prosecuting attorney to appreciate the full scope and true nature of the invention disclosed in the application.
3. I declare that this failure to appreciate the true scope of the invention was without fraudulent or deceptive intention and arose solely from inadvertence, accident or mistake.

Page 1 of 3

Burden Hour Statement: This form is estimated to take 0.5 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

FAX RECEIVED

DEC 17 2002

PETITIONS OFFICE

PTO/SB/51 (02-01)

Approved for use through 12/31/2004. OMB 0851-0033

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Docket Number (Optional)

7157-340

## (REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant. As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

Name(s) \_\_\_\_\_ Registration Number \_\_\_\_\_  
Mitchell S. Feller, Reg. No. 42,530

Lra J. Schaefer, Reg. No. 26,802

Correspondence Address: Direct all communications about the application to:

☐ Customer Number

Type Customer Number here

Place Customer Number Bar  
Code Label here☒ Firm or  
Individual Name

Clifford Chance Rogers &amp; Wells LLP

Address

200 Park Avenue

Address

City

New York

State

NY

Zip

10166

Country

USA

Telephone

212-878-8545

Fax

212-878-8375

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name)  
Alexander R. Roustaei

Inventor's signature

Date

Residence La Jolla, CA

Citizenship

France

Mailing Address 7372 Fay Avenue, La Jolla, CA 92037-5038

Full name of second joint inventor (given name, family name)

Roland L. Lawrence

Inventor's signature

Date

Residence Escondido, CA

Citizenship

United States

Mailing Address 2984 Lawrence Lane, Escondido, CA 92025-7713

Full name of third joint inventor (given name, family name)

Ali Lebaschi

Inventor's signature

Date

Residence San Diego, CA

Citizenship

Iran

Mailing Address 4158 Decoro Street Apt. 65, San Diego, CA 92122

☒ Additional joint inventors are named on separately numbered sheets attached hereto.

(Page 2 of 3)

FAX RECEIVED

DEC 17 2002

PETITIONS OFFICE

7157-340

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of 4th joint inventor (given name, family name)

Long-Xiang Bian

Inventor's signature

Date

Residence Clearwater, FL

Citizenship China

Mailing Address 2664 N. McMullen Boot, Clearwater, FL 33761

Full name of 5th joint inventor (given name, family name)

Donald Fisher

Inventor's signature *Donald Fisher*

Date April 10, 2002

Residence Valley Center, CA

Citizenship United States

Mailing Address 12292 Mirar de Valle, Valley Center, CA 92082-7123

☐ Additional joint inventors are named on separately numbered sheets attached hereto.

(Page 3 of 3)